IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 23882 of 2006(R)

PETITIONER:

M/S. RELISH CUSTOM FOODS,
VALANJAVAZHI, AMBALAPUZHA, ALAPPUZHA P.O.,
REPRESENTED BY ITS PARTNER, SHRI K.S.JAYAKRISHNAN.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

RESPONDENTS:

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1. M/S. STATE BANK OF INDIA,
LOCAL HEAD OFFICE, S.S. KOVIL STREET,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
GENERAL MANAGER.

2. M/S. STATE BANK OF INDIA,
BEACH BRANCH, ALAPPUZHA, REPRESENTED BY ITS
ASST.GENERAL MANAGER.

3. THE SETTLEMENT ADVISORY COMMITTEE,
STATE BANK OF INDIA, LOCAL HEAD OFFICE,
S.S. KOVIL STREET, THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/01/2007, ALONG WITH WPC NO. 30503 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C)Nos.23882 Of 2006

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30503 of 2006

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Dated this the 30th day of January, 2007.

J U D G M E N T

The petitioners in these writ petitions challenged the proceedings initiated by the 1st respondent bank under the SARFEASI Act. They contend that such proceedings during the pendency of proceedings before the D.R.T. under Act 51/1993 is unsustainable and that the transactions being export oriented, the bank did not act promptly in accordance with Uniform Rules of Collection and hence the bank has acted illegaly in treating the case of the petitioners as non performing assets.

2. The initiation of proceedings before the D.R.T under Act 51 of 1993 is no bar for proceedings under the SARFEASI Act.

3. In so far as other contentions are concerned, these are issues which would be taken for consideration before the competent statutory tribunal which would deal with the statutory

appeals under the SARFEASI Act. This means that in answer to the notice issued to the petitioner under Section 13(2) of the Act, the petitioners ought to have placed their objections. There after, the bank could act on such objections and if aggrieved, the petitioners could move the DRT by way of appeals against the action taken in terms of SARFEASI Act. Not having done that, it is not open to the petitioners to rush to this court invoking extraordinary remedy by way of writ petitions.

Having heard the counsel for the petitioner and the bank and having regard to the facts and circumstances of the case, these writ petitions are disposed of directing that if the petitioners submit their objections to notice under Section 13(2) of the SARFEASI Act within a fortnight from today and remit an amount of Rs.3lakhs each, such objections will be considered notwithstanding the time for filing such objections would have run out. Such decision by the bank and further steps, if any, will entitle the petitioner to take recourse to appropriate statutory remedies under the SARFEASI Act. Without prejudice to any such action and without prejudice to the contentions, these writ

petitions are dismissed without entering on merits, subject to what is stated above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

sj